IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6597 of 2005

Between:

Kanuri Balaram, E-104046,
S/o. Late Veerappa, Poosapatirega Village,
Vizianagaram District.

..... PETITIONER

AND

1 The APSTRC, rep. by its Regional Manager,
Vizianagaram District, at Vizianagaram.
2 The APSTRC, rep. by its Deport Manager,
Vizianagaram Depot, Vizianagaram District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 1st respondent therein in transferring the petitioner to another Deport on raising suspension instead of allotting duties at Vizianagaram Depot vide proceedings No.P3/789(1)/05-Vizianagar, dt.19.03.2005 as illegal, unjust and arbitrary, unwarranted and as such liable to set aside in the interest of justice.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: KUM.B.G.UMA DEVI, S.C. for APSRTC.

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in transferring the petitioner to another Depot on raising suspension instead of allotting duties at Vizianagaram Depot vide Proceedings No.P3/789(1)/05-Vizianagaram, dated 19.3.2005 as illegal and arbitrary.

The petitioner was placed under suspension for certain irregularities. After raising the suspension, the petitioner was allotted to duty to work at Parvathipuram Depot by proceedings, dated 19.3.2005. Challenging the same, this writ petition has been filed.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the material on record.

The learned counsel for the petitioner has vehemently contended that after raising the suspension, the petitioner was transferred to Parvathipuram Depot by way of punishment. Therefore, the impugned proceedings are liable to be set aside.

The learned standing counsel for the respondents, on instructions,

has stated that the petitioner was transferred on administrative exigencies and his transfer is not by way of punishment and hence, there are no grounds to interfere with the impugned proceedings.

There cannot be any dispute that the transfer is not only an incident of service but also one of the service conditions as per the rules. Unless the transfer order is vitiated by *mala fides* or is issued by way of punishment or contrary to the rules, the same cannot be interfered with. The only ground that is taken in the affidavit is that the transfer was made by way of punishment. According to the learned standing counsel for the respondents, after taking approval from the Regional Manager, the impugned proceedings have been passed on administrative grounds. As seen from the impugned order, it does not indicate that it was issued by way of punishment. So, after raising the suspension, the petitioner is transferred to another place but within the same district. Therefore, it cannot be said that the transfer order is issued by way of punishment. There are absolutely no grounds to interfere with the same. However, the petitioner rendered 22 years of service in the respondents-Corporation and there is only 3 years of service left for retirement. For that purpose, the petitioner gave a representation, dated 20.3.2005.

For the foregoing reasons, the writ petition is disposed of directing the respondents to take appropriate decision on the representation, dated 20.3.2005 made by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

13th April, 2005

bcj

To

1 The Regional Manager, APSTRC,
Vizianagaram District, at Vizianagaram.
2 The Depot Manager, APSTRC,
Vizianagaram Depot, Vizianagaram District.

3 Two C.D. copies.

Note: Furnish copy in two days

B/o

bcj